

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, THE STATE OF  
NEW YORK *ex rel.* MICHAEL P. KLIMETZ and  
WADE R. GORIA,

Plaintiffs/Relators,

v.

NEW YORK CITY DEPARTMENT OF  
EDUCATION, NEW YORK CITY DEPARTMENT  
OF EDUCATION PANEL FOR EDUCATIONAL  
POLICY, and KATHLEEN ELVIN, individually,

Defendants.

19 Civ. 8535 (KPF)

**FILED UNDER SEAL**

**ORDER**

The United States of America (the “United States”) having declined to intervene pursuant to the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), with respect to the claims raised in the above-captioned *qui tam* action;

The State of New York having also declined to intervene pursuant to the New York False Claims Act, N.Y. State Fin. Law § 190(2)(f), with respect to the claims raised in the above-captioned *qui tam* action;

IT IS ORDERED THAT:

1. The complaint shall be unsealed thirty days after entry of this Order and, in the event that the relators have not moved to dismiss the action, service upon the defendants by the relator is authorized as of that date. If the relators voluntarily dismiss the complaint pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure within this thirty-day period, the relators may seek to modify this Order with the consent of the United States and the State of New York or by motion on notice to the United States and the State of New York.

2. The Notice of Election to Decline Intervention shall be served by the relators upon defendants only after service of the complaint.

3. All documents filed in this action prior to the entry of this Order shall remain under seal and not be made public, except for, thirty days after entry of this Order, relators' *qui tam* complaint, this Order, and the Notices of Election to Decline Intervention.

4. Upon the unsealing of the complaint, the seal shall be lifted as to all other matters occurring in this action subsequent to the entry of this Order.

5. The parties shall serve all pleadings, motions, and notices of appeal filed in this action, including supporting memoranda and materials, upon the United States and the State of New York. The United States and the State of New York may order any deposition transcripts. The United States and the State of New York may seek to intervene in this action, for good cause, at any time or to seek dismissal of this action.

6. All orders of this Court shall be sent to the United States and the State of New York by the relator.

7. Should the relators or defendants propose that this action be dismissed, settled, or otherwise discontinued, the party or parties proposing such relief will solicit the written consent of the United States and the State of New York before applying for Court approval.

Dated: May 15, 2020

SO ORDERED:

A handwritten signature in blue ink, reading "Katherine Polk Failla".

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HONORABLE KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE

The Clerk of Court is directed to file this Order under seal, with viewing privileges limited to the Court and the parties.